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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,918	11/01/2001	Sinpci Nakata	KAS-157	3025
24956 7590 08/24/2007 MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C. 1800 DIAGONAL ROAD SUITE 370 ALEXANDRIA, VA 22314			EXAMINER ALEXANDER, LYLE	
			ART UNIT 1743	PAPER NUMBER
			MAIL DATE 08/24/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/936,918

**Applicant(s)**

NAKATA ET AL.

**Examiner**

Lyle A. Alexander

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,6 and 8-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,6 and 8-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/3/07</u> . | 6) <input type="checkbox"/> Other: _____  |

The Office regrets the confusion if the 1/30/07 Office action was final. The 1/30/07 Office action was count by the Office, as a non-final and the Examiner, in the spirit of fairness, will also consider the 1/30/07 Office action, as non-final event though the penultimate paragraph stated the Office action was final.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6 and 8-12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by JP 5-288756 or JP 4-128657.

In light of the 35 USC 112 second paragraph issues, the claimed invention is not fully understood. For the purposes of examination, the Office best understands the invention as a network of automated analyzer devices connected to a central server. When a specific analysis is selected for the specific device, this information is sent to the server. In return the server supplied calibration information/data to properly set the parameters in the device.

JP 5-288756 teaches a system to automatically transferring various kinds of parameters from an automatic analyzer. The automatic analyzer is provided with a sample identifying means 3, a reagent identifying means 10, and communication means 30, 31, 32. A sample identifying code 4 and a reagent identifying code 11 are automatically read by the sample identifying means and the reagent identifying means,

and transmitted to an external computer 29 by the communication means. It is so designed that a parameter related to the analysis determined by the reagent and such parameters as the concentration, calibration curve, etc., of a standard sample to be used for calibration or the like are taken into the automatic analyzer from the external computer 29.

JP 4-128657 teaches an automated analyzer coupled to a network to monitor the condition as that at the time of analysis. The output is returned to any of the devices on the network after treating the parameters to determining if the analytical conditions and the results of analysis are valid. A plurality of analytical devices 6 and 10 are connected to a computer(1) via telecommunication line (5). The conditions for operating the analytical devices are stored in a transmission parameter table(4) of the computer (1). At the start of analysis the data is sent to their respective analytical devices. The respective analytical devices store the analytical conditions being sent at the start of analysis in the parameter tables(8) and (12), and carry out analysis under these conditions. After completion of analysis. the results of analysis and the contents of the parameter table are sent and stored in the computer(1) automatically or by the instructions of an analyzer. The computer(1) stores the analytical results and parameters sent by the analytical devices 6 and 10 as a set. Thus, since the control of both the analytical results and the analytical conditions is simultaneously carried out, errors can be prevented and the reliability of data can be enhanced.

Claims 1-3 and 6-12 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Fritchie et al.(USP 6,022,746).

See the appropriate paragraph of the 5/31/05 Office action.

***Response to Arguments***

Applicants' arguments filed 5/16/06 have been fully considered but they are not persuasive.

Applicants' state JP 5-288756 does not teach an analysis information management method having a service center. The abstract of JP 5-288756 teach an external computer(29) that controls all of the data handling, transfer and analysis. The Office maintains the computer(29) is taught performing all of the claimed functions. Additionally, Applicants' state JP 5-288756 does not calculate the statistical standards, analysis of controls, etc. JP 5-288756 teaches the computer(29) calculates all the parameters of sample standard that is used for calibration and has been properly read on the instant claims.

Applicants' state JP 4-128657 fails to teach the method of creating and supplying the list of reagents, transferring analysis parameters, analyzing the control, calculating statistical deviation and analysis parameters. JP 4-128657 teaches computer(1) that maintains the operating conditions and parameter tables(4), (8) and (12). The subsequent results are stored in computer(1) from the analytical devices(6) and (10) to prevent errors. The Office maintains JP 4-128657 clearly anticipates the instant claims.

Applicants' state Fritchie does not teach calculating deviation between the results and a standard value, determining if the analysis parameter are correct, creating a

supply list, calculating the statistical deviations. The Office maintains Fritchie teach in figures 2-3 teaches steps that clearly anticipate the claimed invention.

With respect to the 8/3/07 IDS, DE 4312093 and DE 29823595 were characterized as "X" references by the European search report. An English language abstract for DE 4312093 was supplied and considered. From what could be gleaned from the abstract this reference did not appear particularly pertinent. No translation/abstract was provided for DE 29823595 and this reference could not be consider. A translation of these references would be helpful so they could be more fully considered. Additionally, it appears WO 99/22236 and Ozawa et al. teach similar methods of automatic analysis and maybe are applied in the future. Presently, these references are considered duplicative of the cited prior art and do not need to be applied at this point in the prosecution.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lyle A. Alexander whose telephone number is 571-272-1254. The examiner can normally be reached on Monday, Wednesday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lyle A Alexander  
Primary Examiner  
Art Unit 1743

